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EXAMINER				
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOSHIYUKI YAMASHITA and
MASAZUMI ITO

Appeal 2007-3490
Application 09/662,176
Technology Center 3600

Decided: March 28, 2008

Before TERRY J. OWENS, MURRIEL E. CRAWFORD, and
ANTON W. FETTING, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 (2002) from a final rejection of claims 1 to 4 and 6 to 17. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellants invented a parts-management system including a first transmitter which transmits identification information of each part to a second transmitter which transmits a request signal for requesting a transmission of an operation value of at least one part (Specification 3).

Claim 1 under appeal reads as follows:

1. A parts-management system comprising:
a terminal apparatus; and
a management apparatus for communicating with said terminal apparatus, wherein said terminal apparatus includes:
a first memory which stores identification information of each part used in said terminal apparatus and an operation value corresponding to an operation of each part in a mutually related manner, and
a controller of said terminal apparatus which performs a predetermined operation processing corresponding to an operation of each part and updates said operation value stored in said first memory when said part operates, wherein said controller of said terminal apparatus updates, based on said identification information and said operation value of each part transmitted from said management apparatus, the corresponding operation value of said identification information stored in said first memory;
a first transmitter which transmits said identification information of each part and said
operation value corresponding to said identification information to said management apparatus; and
a second transmitter which transmits a request signal for requesting a transmission of said operation value for at least one part, and

wherein said management apparatus includes:

a second memory which stores said identification information of each part and said operation value each sent by said first transmitter in a mutually related manner; and a third transmitter which transmits said identification information and said operation value each stored in said second memory to said terminal apparatus in response to said request signal.

The Examiner rejected claims 1 to 4 and 6 to 17 under 35 U.S.C. § 103(a) as being unpatentable over Okigami and Antziopoulos.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Antziopoulos	5,847,814	Dec. 8, 1998
Okigami	6,401,116 B1	Jun. 4, 2002

Appellants contend that the Examiner improperly took Official Notice of the fact that multiple transmitters can take the place of network connections in order to provide a cheaper simpler means of data transfer.

ISSUE

The issue is whether the Appellants have shown that the Examiner erred by taking Official Notice that multiple transmitters can take the place of network connections in order to provide a cheaper and more simple means of data transfer.

FINDINGS OF FACT

Okigami discloses a parts management system including a parts service company 5 which communicates with trouble management server and terminal device such as a copier via the internet regarding the lifespan of a part in the copier (Figure 1). Okigami does not disclose first and second transmitters.

Antziopoulos does not disclose first and second transmitters

ANALYSIS

We will not sustain the rejection. The taking of Official Notice is only proper where the facts are capable of such instant and unquestionable demonstration as to defy dispute. *In re Knapp-Monarch Co.*, 296 F.2d 230, 232 (CCPA 1961) . It is not appropriate for the Examiner to take Official Notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known as the principal evidence upon which a rejection was based. *See In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970).

In the instant case, the Examiner improperly took Official Notice that transmitters can take the place of network connections and that the use of the transmitters is a cheaper, simpler means of data transfer. The Examiner has not established, and it is not apparent, that it could be instantly and unquestionably demonstrated that it would have been well known to a person of ordinary skill in the art to use transmitters to take the place of network connections and that such communication through transmitters would be simpler and cheaper than communications through a network. Therefore, the Examiner improperly relied on Official Notice in making the rejection. As such, we will not sustain the rejection. The decision of the Examiner is reversed.

REVERSED

jlb

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